

REMARKS

Claims 1-16 are pending in this application.

I. Rejections under 35 U.S.C. 103

A. Horowitz in view of Yamato and Dudkiewicz

The Office Action rejects claims 1-5 and 8-16 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication No. 2004/0078817 A1 to Horowitz et al. ("Horowitz") in view of U.S. Patent Application Publication No. 2002/0127000 A1 to Yamato et al. ("Yamato") and in further view of U.S. Patent Application Publication No. 2002/0152474 A1 to Dudkiewicz et al. ("Dudkiewicz"). Applicants respectfully traverse the rejections.

1. Horowitz

Horowitz allegedly discloses a video broadcast system comprising a client's device receiving broadcast contents from a satellite base transmitter via satellite dish or via broadcast networks. This system also comprises two different servers containing information about program data broadcast: an EPG server containing information about the broadcast programs, and an EPG update server that "stores information that is categorically similar to that which is stored by the program data providers in the EPG database." *See* Horowitz, paragraph [0051], lines 10-12.

As such, one can reasonably consider that the "client's device" of Horowitz is an access terminal as claimed and that a) the EPG server or b) the EPG update server is an audiovisual content presentation server as claimed. The fact that the EPG data stored in the EPG server of Horowitz are "repeatedly broadcast...to the client's device," implies that the client's device stores EPG data. *See* Horowitz, end of paragraph [0046] and paragraph [0049]. Therefore, when the client's device needs to record a broadcast program, it does so by using an EPG application through which the television viewer "enters instructions to record

one or more television shows." *See* Horowitz, paragraph [0049], lines 5-8. Clearly, the selection of the program to record, *i.e.*, the generation of the record file as claimed, is performed inside the client's device and not inside the EPG server. As such, the EPG server (which could be assimilated into an audiovisual content presentation server as claimed) does not run a step whereby a record file is generated, since the record file is generated by the access terminal.

Moreover, when the client's device of Horowitz needs to update the record file (also referred to as the "instructions to record one or more television shows" *see* Horowitz, paragraph [0049]) the client's device transmits a request to one or more of the EPG update providers whose "EPG update database stores information that is categorically similar to that which is stored by program data providers in EPG database." *See* Horowitz, paragraph [0051], lines 10-12. The information transmitted by the EPG update server to the client's device is not a record file, but, rather, only contains the broadcast date and time associated with specific audiovisual content.

In summary, Horowitz fails to teach or suggest any of the following: i) a preliminary step of selecting, from an access terminal, a set of contents having a common topic, said set being offered by an audiovisual content presentation server (as acknowledged by the Office Action, page 3, last paragraph); ii) a step of the audiovisual content presentation server selecting at least an audiovisual content to be recorded on the basis of the selected set; and, iii) a step of the audiovisual content presentation server generating a record file containing information identifying the selected audiovisual content to be recorded and the scheduled date and time for broadcasting it as instantly claimed.

2. Yamato

Despite their asserted disclosures, Yamato and Dudkiewicz fail to cure the deficiencies of Horowitz. Yamato allegedly discloses a program recording device which

receives a broadcast program. *See* Yamato, claim 1. This program recording device, like the client's device of Horowitz, can safely be considered part of an access terminal and not a content presentation server. Contrary to the client's device of Horowitz, the program recording device allegedly disclosed by Yamato includes a program information database, which stores the program information of the EPG. As noted by the Office Action, "the device searches the data of the EPG for user's favorite programs by using keywords or types which are established in advance by the user." *See* Office Action, page 4, paragraph 1. In other words, Yamato allegedly teaches a step of selecting, from an access terminal, a set of contents having a common topic, said set being offered by the access terminal (specifically, the set is offered by the EPG, which is part of the access terminal).

Consequently, even if one of skill in the art had modified the alleged teaching of Horowitz by the alleged disclosure of Yamato, he would have added to Horowitz's method a step of selecting, from the client's device, a set of contents having a common topic, said set being offered by the client's device, and certainly not offered by the EPG server or by the EPG update server. In addition, both Horowitz and Yamato allegedly disclose a transmission of the whole program data from EPG server to access terminals; but, neither reference suggests making a selection of the program data to record on a content presentation server.

3. Dudkiewicz

The Office Action acknowledges that the combination of Horowitz and Yamato does not teach the system where the content to be recorded is selected by the server; but, it asserts that Dudkiewicz cures this deficiency. *See* Office Action, page 4 paragraph 3. Paragraph [0105] of Dudkiewicz recites, in part (emphasis added):

...the scoring and scheduling processes described above are presented in the context of a client device that analyzes metadata for purposes of identifying upcoming programming events to be recommended or recorded, alternative embodiments of the invention may implement the scoring and scheduling

processes in a server of a programming even distribution system that analyzes programming events to determine programming events of interest to particular viewers so that those programming events can be recommended for transmission or automatically transmitted.

Clearly, in the alternative embodiment, the programming server does not identify contents to record; and, moreover, in both embodiments, the optional selection of contents to record is made by the access terminal, which contains the recording device. Therefore, even if one of skill in the art had modified Horowitz with the alleged teaching of Dudkiewicz, he would at most have added to Horowitz's method a step of selecting from the client's device, a set of contents having a common topic, said set being offered by the server. However, this set would have been transmitted to the access terminal and then the access terminal would have selected the audiovisual content to be recorded, on the basis of the set selected by the server.

As such, the combination of Horowitz, Yamato and Dudkiewicz does not teach a step of the audiovisual content presentation server selecting at least an audiovisual content to be recorded, on the basis of the selected set.

For at least the reasons discussed above, Horowitz, Yamato, and Dudkiewicz, considered separately or in any combination, do not teach or suggest each and every feature of claim 1 and, thus, would not have rendered obvious claim 1. Claims 2-5 and 8-16 variously depend from claim 1 and, thus, also would not have been rendered obvious by Horowitz, Yamato, and Dudkiewicz. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

B. Horowitz, Yamato, and Dudkiewicz, in view of Carden

The Office Action rejects claims 6 and 7 under 35 U.S.C. §103(a) over Horowitz, Yamato, and Dudkiewicz, in view of U.S. Patent No. 6,996,627 to Carden et al. ("Carden"). Applicants respectfully traverse the rejection.

Claims 6 and 7 depend from claim 1 and, therefore, contain all the features of claim 1. The deficiencies of Horowitz, Yamato, and Dudkiewicz with respect to claim 1 are discussed above. Carden, which is cited by the Office Action for the additional features recited in dependent claims 6 and 7, does not cure the deficiencies of Horowitz, Yamato, and Dudkiewicz with respect to claim 1. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

II. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-16 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



William P. Berridge
Registration No. 30,024

Jeffrey R. Bousquet
Registration No. 57,771

WPB:JRB/csw

Date: April 11, 2008

OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, Virginia 22320-4850
Telephone: (703) 836-6400

<p>DEPOSIT ACCOUNT USE AUTHORIZATION Please grant any extension necessary for entry; Charge any fee due to our Deposit Account No. 15-0461</p>
--